General Assembly

Raised Bill No. 694

February Session, 2008

LCO No. **3320**

03320_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING ERASURE OF CRIMINAL RECORDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1   Section 1. Section 54-142a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3   (a) Whenever in any criminal case, on or after October 1, 1969, the
4 accused, by a final judgment, is found not guilty of the charge or the
5 charge is dismissed, all police and court records and records of any
6 state's attorney pertaining to such charge shall be erased upon the
7 expiration of the time to file a writ of error or take an appeal, if an
8 appeal is not taken, or upon final determination of the appeal
9 sustaining a finding of not guilty or a dismissal, if an appeal is taken.
10 Nothing in this subsection shall require the erasure of any record
11 pertaining to a charge for which the defendant was found not guilty by
12 reason of mental disease or defect or guilty but not criminally
13 responsible by reason of mental disease or defect.

14   (b) Whenever in any criminal case prior to October 1, 1969, the
15 accused, by a final judgment, was found not guilty of the charge or the
16 charge was dismissed, all police and court records and records of the

17 state's or prosecuting attorney or the prosecuting grand juror
18 pertaining to such charge shall be erased by operation of law and the
19 clerk or any person charged with the retention and control of such
20 records shall not disclose to anyone their existence or any information
21 pertaining to any charge so erased; provided nothing in this subsection
22 shall prohibit the arrested person or any one of his heirs from filing a
23 petition for erasure with the court granting such not guilty judgment
24 or dismissal, or, where the matter had been before a municipal court, a
25 trial justice, the Circuit Court or the Court of Common Pleas with the
26 records center of the Judicial Department and thereupon all police and
27 court records and records of the state's attorney, prosecuting attorney
28 or prosecuting grand juror pertaining to such charge shall be erased.
29 Nothing in this subsection shall require the erasure of any record
30 pertaining to a charge for which the defendant was found not guilty by
31 reason of mental disease or defect.

32   (c) (1) Whenever any charge in a criminal case has been nolled in the
33 Superior Court, or in the Court of Common Pleas, if at least thirteen
34 months have elapsed since such nolle, all police and court records and
35 records of the state's or prosecuting attorney or the prosecuting grand
36 juror pertaining to such charge shall be erased, **[**. However,**]** except
37 that in cases of nolles entered in the Superior Court, Court of Common
38 Pleas, Circuit Court, municipal court or by a justice of the peace prior
39 to April 1, 1972, such records shall be deemed erased by operation of
40 law and the clerk or the person charged with the retention and control
41 of such records shall not disclose to anyone their existence or any
42 information pertaining to any charge so erased, provided nothing in
43 this subsection shall prohibit the arrested person or any one of his
44 heirs from filing a petition to the court or to the records center of the
45 Judicial Department, as the case may be, to have such records erased,
46 in which case such records shall be erased.

47   (2) Whenever any charge in a criminal case has been continued at
48 the request of the prosecuting attorney, and a period of thirteen
49 months has elapsed since the granting of such continuance during

50 which period there has been no prosecution or other disposition of the
51 matter, the charge shall be construed to have been nolled as of the date
52 of termination of such thirteen-month period and such erasure may
53 thereafter be effected or a petition filed therefor, as the case may be, as
54 provided in this subsection for nolled cases.

55 (d) (1) Whenever prior to October 1, 1974, any person who has been
56 convicted of an offense in any court of this state has received an
57 absolute pardon for such offense, such person or any one of his heirs
58 may, at any time subsequent to such pardon, file a petition with the
59 superior court at the location in which such conviction was effected, or
60 with the superior court at the location having custody of the records of
61 such conviction or with the records center of the Judicial Department if
62 such conviction was in the Court of Common Pleas, Circuit Court,
63 municipal court or by a trial justice court, for an order of erasure, and
64 the Superior Court or records center of the Judicial Department shall
65 direct all police and court records and records of the state's or
66 prosecuting attorney pertaining to such case to be erased.

67 (2) Whenever such absolute pardon was received on or after
68 October 1, 1974, such records shall be erased.

69 (e) (1) The clerk of the court or any person charged with retention
70 and control of such records in the records center of the Judicial
71 Department or any law enforcement agency having information
72 contained in such erased records shall not disclose to anyone, except
73 the subject of the record, upon submission pursuant to guidelines
74 prescribed by the Office of the Chief Court Administrator of
75 satisfactory proof of the subject's identity, information pertaining to
76 any charge erased under any provision of this section and such clerk or
77 person charged with the retention and control of such records shall
78 forward a notice of such erasure to any law enforcement agency to
79 which he knows information concerning the arrest has been
80 disseminated and such disseminated information shall be erased from
81 the records of such law enforcement agency. Such clerk or such person,

82   as the case may be, shall provide adequate security measures to
83   safeguard against unauthorized access to or dissemination of such
84   records or upon the request of the accused cause the actual physical
85   destruction of such records, except that such clerk or such person shall
86   not cause the actual physical destruction of such records until three
87   years have elapsed from the date of the final disposition of the criminal
88   case to which such records pertain.

89   (2) No fee shall be charged in any court with respect to any petition
90   under this section.

91   (3) Any person who shall have been the subject of such an erasure
92   shall be deemed to have never been arrested within the meaning of the
93   general statutes with respect to the proceedings so erased and may so
94   swear under oath.

95   (f) Upon motion properly brought, the court or a judge thereof, if
96   such court is not in session, may order disclosure of such records (1) to
97   a defendant in an action for false arrest arising out of the proceedings
98   so erased, or (2) to the prosecuting attorney and defense counsel in
99   connection with any perjury charges which the prosecutor alleges may
100 have arisen from the testimony elicited during the trial. Such
101 disclosure of such records is subject also to any records destruction
102 program pursuant to which the records may have been destroyed. The
103 jury charge in connection with erased offenses may be ordered by the
104 judge for use by the judiciary, provided the names of the accused and
105 the witnesses are omitted therefrom.

106 (g) The provisions of this section shall not apply to any police or
107 court records or the records of any state's attorney or prosecuting
108 attorney with respect to any information or indictment containing
109 more than one count **[**(1)**]** while the criminal case is pending. **[**, or (2)
110 when the criminal case is disposed unless and until all counts are
111 entitled to erasure in accordance with the provisions of this section.**]**
112 Nothing in this section shall require the erasure of any information

113   contained in the registry of protective orders established pursuant to
114   section 51-5c.

115   (h) For the purposes of this section, "court records" shall not include
116   a record or transcript of the proceedings made or prepared by an
117   official court reporter, assistant court reporter or monitor.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2008*	54-142a

Statement of Purpose:

To provide that criminal records be erased upon a dismissal, nolle or a person being found not guilty with respect to a criminal count that is one of multiple criminal counts, in the same manner as such records are erased with respect to a single criminal count.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]